

CP19/25: PENSION TRANSFER ADVICE: CONTINGENT CHARGING AND OTHER PROPOSED CHANGES

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CONTENTS

ABOUT THE PLSA	3
INTRODUCTION	4
CONSULTATION RESPONSE	5
DISCLAIMER	11

ABOUT THE PLSA

We're the Pensions and Lifetime Savings Association; we bring together the pensions industry and other parties to raise standards, share best practice, and support our members. We represent over 1,300 pension schemes with 20 million members and £1 trillion in assets, across master trusts and defined benefit, defined contribution, and local government funds. Our members also include some 400 businesses which provide essential services and advice to UK pensions providers.

Our mission is to help everyone to achieve a better income in retirement. We work to get more people and money into retirement savings, to get more value out of those savings, and to build the confidence and understanding of savers.

INTRODUCTION

The PLSA has consistently called for a ban on contingent charging for pensions transfer advice, and on that basis welcome this consultation. The FCA deserves credit for collecting the evidence and adjusting its position to reflect the findings.

Pensions transfer advice has clearly not been of the best quality on all occasions, and not with the best interests of savers in mind. We believe that contingent charging, with its model of only paying the adviser if the pensions transfer goes ahead, has been a perverse incentive that has resulted in far too many unsuitable Defined Benefits to Defined Contributions transfers happening.

Although some of the recommendations may take longer to implement than others it is imperative that individual savers are at the heart of any roll out and that a contingent charging ban is not subject to further delays.

It is clear that for the majority of savers, remaining with their Defined Benefits scheme would be the most suitable advice. Where suitable advice is given to transfer out of the Defined Benefit scheme, we agree that careful consideration should be given on whether to transfer to the saver's workplace pension and justification for not doing so if the destination scheme is an alternative non-workplace pension.

We would welcome a bigger role for the Money and Pensions Service in providing triage for DB to DC pension transfers. We believe they are best placed to judge how they deliver triage to the volumes involved but helpfully suggest that this could be using a combination of Pension Wise like appointments, robo-guidance and the pensions guidance helpline.

Employers and trustees would welcome greater clarity on how far they could go with DB pensions transfers triage, and information and guidance more generally, before it is classified as promotion or giving financial advice. The PLSA would be happy to work with the FCA, TPR and other interest parties in improving the pre-existing joint TPR/FCA guidance in this space, to make it more detailed and answer these questions.

CONSULTATION RESPONSE

Q1: Do you have any comments on the intended commencement dates of our proposals or the draft Handbook text set out in Appendix 1?

It is imperative that the protection of pension scheme members is front and centre of any schedule. The timing for banning contingent charging should be prioritised and introducing this within a week of the outcome is both reasonable and appropriate.

The introduction of carve outs, abridged advice and triage services within a week of the outcome is also reasonable but should not in any way delay the banning of contingent charging.

The prioritisation of DC workplace schemes and the measures on initial charges disclosure and enhanced charges disclosure in suitability reports should also be brought in within a week of the outcome.

With the transfer value comparator, we would also expect this to be brought in sooner than the 6 months stated. A deadline of 3 months would be more reasonable and since these proposals have been widely flagged with advisers, this would also be very achievable.

CHAPTER 3: ADDRESSING INITIAL CONFLICTS – CONTINGENT CHARGING

Q2: Do you agree that a ban on contingent charging is likely to be effective in reducing the numbers of consumers receiving unsuitable advice? If not, how would you suggest we effectively reduce the numbers of consumers receiving unsuitable advice? Do you think we should address the conflict of interest issues differently?

We support a ban of contingent charging primarily because we believe it gives a perverse incentive to advisors to recommend transferring out of a Defined Benefit scheme. We see a ban on contingent charging as one of a number of measures that will improve the quality of financial advice in respect of Defined Benefits transfers.

Q3: Do you agree that the way in which we have set out the ban should be effective and adequately reduces scope for gaming? If not, how should we amend it?

It appears that most scenarios have been covered, although we would encourage the FCA to keep collecting data in this area and monitoring fee and transfer activity.

Q4: Do you agree with the scope of the proposed carve-out and our proposals for monitoring its use? If not, how would you change it?

This seems reasonable but we would like to see more evidence of how it would work in practice and make sure that any risks of gaming the system are adequately mitigated.

Q5: Do you agree with our decision not to propose a price cap? If not, how could the shortcomings of a price cap be overcome?

We agree that alternatives such as a price cap would not be as effective as banning contingent charging.

Q6: Do you agree that changes to our existing conflict of interest and accountability rules would not effectively address the harm to consumers occurring in this market? If not, what changes to systems and controls would be most effective?

Yes, we agree with this. The Australian Royal Commission into the Misconduct in the Banking, Superannuation and Financial Services Industry showed that many funds were carrying out a tick box exercise when considering conflicts of interest and not seeking to redress them. There is a danger that a tick box exercised could also be employed in the UK within the DB to DC pension transfer advice regime.

Q7: Do you agree that separating responsibility for transfer advice potentially has unintended consequences that may not be in clients' best interests? Are there any ways in which a separation of advice or independent checking of transfer advice could work effectively?

Yes, we agree that separating responsibility for transfer advice has the possibility of confusing savers and where they can go to seek redress in situation where it has all gone wrong.

Q8: Do you agree that banning percentage charging is unlikely to have a significant impact on consumer outcomes? If not, how could it be used effectively?

We believe that a ban on contingent charging should take place first and foremost and that banning percentage charging would not have the same effectiveness.

Q9: What are your views on the potential for 'scheme pays', changes to the pension advice allowance and partial transfers to improve the quality of advice or address conflicts of interest adequately, or both?

If an extension in scheme pays rules is sought for Defined Benefits schemes to pay for financial advice/the pensions advice allowance, then it would make the process easier to administer and less costly for schemes if it were made mandatory for schemes to pay rather than optional.

There are definite concerns however that the measure would result in savers receiving reduced benefits at retirement, to receive advice not to transfer out and that the whole process may only serve to enrich financial advisers.

Any scheme pays system put in place should make absolutely clear that the scheme bears any liability for the advice that members commission from regulated advisers unless the scheme itself is anyway responsible for commissioning the advice.

There may be a case for partial transfers out being broadened in scope but how this would be administered and the cost impact analysis would have to be considered in depth first. We would again emphasise that there needs to be clarity on scheme liability within any partial transfers.

Q10: Given the timeframes that apply to guaranteed transfer values, what are your views on the need to provide guidance to members considering a pension transfer? Should guidance be mandatory and, if so, who should deliver it?

Trustees of pension schemes and employers should be enabled to give personalised guidance where they wish to do so. The current guidance from the Pensions Regulator and the FCA in their joint document on the guidance that employers and trustees can give is too high level and does not give the assurance to our members that they can give triage/near triage guidance in this area. There are questions about to what extent they can give information and guidance at all in this specific area, and we would welcome the opportunity to work with both TPR and the FCA on making a more detailed guidance document.

MAPS should provide a form of robo-guidance to complement their pensions guidance helpline to allow more people to obtain guidance on their DB to DC pensions transfer decisions. We would also support MAPS providing triage appointments with a similar structure to the Pension Wise appointments and franchising this out to other face to face organisations, such as currently done with Citizens Advice.

Q11: Do you agree with our additional guidance on triage services? If not, please indicate alternative ways of addressing the issue.

The perimeter guidance should make it clearer that MAPS, employers and trustees can personalise guidance/triaging as they do not have a commercial interest in a transfer out going ahead. The PLSA would be happy to work with both the FCA and TPR on developing more detailed guidance for employers and trustees in this area.

Q12: Do you agree with our proposed abridged advice service will enable firms to provide a low-cost alternative to full advice for those consumers that need it? If not, how would you suggest we amend it?

If this is introduced we would expect a close watch to be kept on this by the FCA and TPR to make sure the system is not being gamed in anyway, and mitigate potential risks. It may be that better solutions lie in using robo-advice and guidance.

Q13: Do you agree that requiring firms to demonstrate that an alternative scheme is more suitable than a WPS is the most effective way to reduce the numbers of consumers being transferred into schemes that do not meet their needs and limit unnecessary charges paid? If not, how would you suggest we address this issue more effectively?

In most cases the workplace scheme will be more suitable as it is likely to have a lower charging structure.

The FCA's own findings on non-workplace pensions show the extent to which charges are often complicated and/or too high, and also demonstrate how savers are not having their investment choices regularly reviewed.

Workplace pension schemes benefit from the oversight of trustees who aim to keep charges low and have a default investment strategy that is designed for most people to receive better outcomes in retirement.

We therefore support the FCA applying this measure as soon as possible and know that the FCA will monitor to what extent suitability reports and advice complies.

CHAPTER 5: EMPOWERING CONSUMERS

Q14: Do you agree with our proposals for requiring the disclosure of charges in engagement letters? If not, please indicate what alternatives should be considered.

Yes, placing charges upfront at the point of engagement is the right part of the advice process and maximises transparency.

Q15: Do you agree with our proposals to introduce a one-page summary at the front of a suitability report? If not, please indicate what alternatives should be considered to improve disclosures to consumers.

Yes, this supports cost transparency for the saver.

Q16: Do you agree with our proposal to require that suitability reports are always provided before a transaction is undertaken?

Yes, this should already be the case in respect of pension transfer advice.

Q17: Do you agree with our approach to checking that the client has a reasonable understanding of the risks of proceeding? If not, what alternative approaches might achieve the same outcome?

If applied in a standardised way this has the potential to work. We would be keen to know how this would be implemented as there are concerns that this could be gamed or turned into a tick box exercise.

CHAPTER 6: ENABLING ADVISERS

Q18: Do you agree with our proposals to introduce CPD requirements for PTSs? If not, what other approaches could be used to help PTSs maintain knowledge?

Yes, CPD is standard for most professionals in Financial Services and this would be a good way of both helping PTSs to maintain their knowledge and giving recognition to their profession.

CHAPTER 7: EFFECTIVE REGULATION

Q19: Do you agree with the data we propose to collect in RMA-M? If not, what amendments would you suggest?

Yes, the additional data requested seems reasonable, and in keeping with the PLSA's recommendations for more data to be collected by both the FCA and TPR.

Q20: Do you agree with the data we propose to collect in RMA-E, FSA031, FSA032 and FIN-APF? If not, what amendments would you suggest?

Yes, reporting on exclusions makes perfect sense.

Q21: Do you have any comments on the proposed guidance for completing RMA-M and revised guidance for completing RMA-E, FSA031, FSA032 and FIN-APF?

No.

CHAPTER 8: TECHNICAL AMENDMENTS

Q22: Do you agree with our proposed changes to the pension transfer definition?

Yes, this seems reasonable.

Q23: Have we identified all the protections that would be lost for some categories of pension transfer and addressed these adequately?

Yes, this seems comprehensive.

Q24: Do you agree with our proposed changes and clarifications to the TVC rules? If not, please indicate how we should change our approach.

After speaking to your team at the FCA, we are satisfied that the changes to the TVC rules are both reasonable and consistent with an approach of keeping the saver well informed.

Q25: Do you agree with our proposals when cashflow modelling is used in an APTA? If not, how do you suggest we amend it?

Yes, we agree with that any cashflow modelling used must take into account inflation, fiscal factors and outline that markets could go down (as well as up) during retirement.

Q26: Do you agree with our approach of clarifying that retirement annuity contracts should be treated in the same way as contracts with guaranteed annuity rates? If not, please state why.

Yes, this makes perfect sense.

Q27: Do you agree with our proposed guidance on how advisers should give advice when only an estimated transfer value is available? If not, how would you change it?

Yes, the guidance seems reasonable.

Q28: Do you agree with our proposals to amend the application of the adviser charging and inducement rules to include advice on pension transfers and conversions in all circumstances (other than the proposed exclusion of an “employer funded pension advice charge” from the application of the adviser charging rules)? If not, please state why.

Yes.

Q29: Do you agree with the change in application of COBS19.1 to capture arranging a transfer or conversion? If not, please explain why.

Yes.

ANNEX 3: COST BENEFIT ANALYSIS

Q30: Do you have any comments on our cost benefit analysis?

No.

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